

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of)	
)	
Application for Full Commission Review)	
of a Common Carrier Bureau Decision)	
Rendered Under Delegated Authority)	DA No. 02-438
for Lunenburg County Schools, Virginia)	
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96-45
)	
)	
Changes to the Board of Directors of the)	
National Exchange Carrier Association)	CC Docket No. 97-21

Application for Review of Delegated Authority Decision

Funding Year Two Form 471 Application Number: 0000209013
Entity Number: 126569
Funding Request Number: 0000481380
Contact Name: Marie Gee
Contact Phone (804) 696-2116

In accordance with 47 CFR 1.115 (Application for review of action taken pursuant to delegated authority), Lunenburg County Public Schools, Virginia requests full Commission review of a Common Carrier Bureau (CCB) decision denying Lunenburg's appeal of an administrator's decision in the Universal Service (E-Rate) support

mechanism. We ask Commission review of this decision under the authority of 47 CFR 1.115 (b)(2) (iv), an erroneous finding by the CCB as to an important or material question of fact. Based on the arguments presented below, we ask the commission to overturn the CCB decision and remand the application here under appeal to the Schools and Libraries Division (SLD) for further processing.

Background

Lunenburg County schools submitted a Form 471, application number 0000209013, for Universal Service (E-Rate) discounts for Year Two to the Schools and Libraries Division. On Funding Request Number (FRN) 0000481380, we requested funding for a wireless Local Area Network (LAN), including routers, traneivers, and Network Interface Cards (NIC) for individual computers.

The Schools and Libraries Division denied funding for our wireless LAN application because it included funding for NICs that would reside in individual computers and the SLD determined that more than 30 percent of the application was for NICs. According to E-Rate Eligible Service List issued December 2, 1999, NICs are eligible only if they are part of an eligible product or service. Individual computers are not eligible for funding.

We appealed the SLD decision to the Federal Communications Commission citing the fact that funding for ineligible NICs represented only 23.7 percent of our total funding request. In its review, the CCB subtracted the cost of installation in calculating the cost of the NICs. Using this formula, the cost of NICs represented 33 percent of the total cost of

hardware. The CCB further concluded that installation costs would also be proportional for eligible wireless hardware and NIC installation, resulting in an overall ineligible product request of 33 percent and denied our appeal on that basis.

Important Material Question of Fact

We concede that we made a mistake in including the cost of NICs in our application for E-Rate discounts but stress that it was an honest mistake, as the Eligible Service List did include NICs as conditionally eligible if part of an eligible product or service. We mistakenly concluded that purchase and installation of a LAN was an eligible service verses product. We apologize for this mistake. We also wish to point out that this was simply a mistake and in no way an attempt to defraud the E-Rate program. In fact, we chose a wireless LAN configuration primarily because of its low cost of installation and equipment.

We also wish to point out that when the Eligible Service List was revised on January 24, 2001, the entry for NICs had been changed to include specific examples of eligible uses for NICs "...such as a server, router, switch, or hub." This line was presumably added because numerous applicants, such as ourselves, had mistakenly believed NICs to be eligible for funding.

There are two important material facts excluded from the CCB's decision denying our appeal. First is the fact that the little antennas attached to the NICs are eligible for discounts (see SLD Eligible Service List). According to current CISCO price lists

(Attached email from John Rivers of Cisco Systems) the cost of the “Rubber Duck” antenna (which we purchased under this contract) is \$49, or \$2450 of the total cost of the 50 NICs we ordered. Using the figure of \$14,750 as a cost basis for the NICs, and \$2450 as eligible components, the total ineligible amount in this request is \$12,300, or 28 percent of the total hardware costs, below the 30 percent threshold for funding denial.

The second important material fact is the calculation for installation charges. The costs associated with installation of the wireless system are only for wiring from the main router to wireless transceivers throughout the building, mounting of hardware, and system configuration. Lunenburg County school staff will install the NICs in individual computers and configure each computer. There are no installation charges for NICs associated with our funding request. When CCB calculations for NIC installation of \$6,006 are subtracted from the ineligible side of the equation, the total ineligible amount remains \$12,300, or only 20 percent of our initial funding request of \$62,850.00.

If either of these two material facts are considered individually, the ineligible portion in each case would still be below the 30 percent denial threshold (28 percent for the first scenario and 23 percent for the second).

We ask the full Commission to overturn this decision and remand our application to the SLD for further processing, subtracting whatever is ultimately determined to be the ineligible portion of our request. We are a small rural school division with a high poverty rate. E-Rate funding is absolutely necessary to bring telecommunications and Internet access to our students.

Thank you for your consideration.

Sincerely,

Marie Gee

Technology Coordinator
Lunenburg County Public Schools
1615 Eighth Street
Victoria, Virginia 23974
(434) 696-2116

CC: Senators
Congressmen
Greg Weisiger

Attachment

Subject:

RE: Lunenburg County School

Date:

Fri, 8 Mar 2002 11:51:57 -0500

From:

"John Rivers" <jorivers@cisco.com>

To:

"greg weisiger" <gweisige@pen.k12.va.us>

AIR-ANT4941 2.2 dBi Dipole Antenna (Standard Rubber Duck) N/A \$49

Greg..

I haven't had any luck coming up with a cost breakdown of the internal antenna for the NIC. But, above is the cost of the standard external "rubberduckie" antenna that maybe you could be use as a benchmark.

Thanks,

John